

REMARKS

Claims 1-9 are pending. Claims 4-9 have been withdrawn. Claim 1-3 are rejected.

Information Disclosure Statement

Examiner has stated that references cited in the Applicants' list of references that were not present in the file of Application No. 09/767,460 were not considered and have been lined though in the signed copy of the list of references attached to this Office Action.

Applicants attached to response filed on December 15, 2006 copies of the references cited in the IDS filed May 17, 2004 that are not present in the Application No. 09/767,460.

Priority

Applicants' claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. The Examiner states that Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

The Examiner states "The instant application claims priority to Application No. 09/490,701, which does not have a common inventor with the instant application as required by 35 U.S.C. 120." The application number in the priority claim when the application was filed contains a topographical error. The priority claim as stated in the original specification states "This application is a continuation of co-pending United States Serial No. 09/747,460, filed January 23, 2001, which is continuation-in-part of United States Serial No. 09/490,701, now U.S. Patent No. 6,560,542, filed January 24, 2000, which is incorporated herein in its entirety." The priority claim as corrected by the amendment to the specification submitted in this amendment now reads "This application is a continuation of co-pending United States Serial No. 09/747,460, filed January 23, 2001, which is continuation-in-part of United States Serial No. 09/490,702, now U.S. Patent No. 6,560,542, filed January 24, 2000, which is incorporated herein in its entirety." The correct application number is

09/490,702, which is now U.S. Patent 6,560,542, filed January 24, 2000. Please note that patent number of the patent issuing from the claimed priority document and filing date are accurate in Applicants' priority claim. Applicants respectfully request that the error be corrected and that priority to Application No. 09/490,702 be granted.

Election Restrictions

Claims 1-3 are pending in this application, Claims 4-9 were withdrawn from consideration by the examiner after a telephone conversation with Eric Witt on May 15, 2006 where a provisional election was made without traverse

Applicants are required under 35 U.S.C. §121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Applicants confirm the election of species 1) peptides with a Dopamine D2 target (SEQ ID NOS: 1-12), without traverse. Claims 1-3 read on this species. Applicants, however, reserve the right pursuant to 35 U.S.C. §121 to file one or more divisional applications directed to the non-elected invention during the pendency of the present application. Accordingly, no new matter is added. Entry of this amendment requirement is respectfully requested.

Specification

The Preliminary Amendment to the specification filed August 9, 2005 is improper because the changes were not indicated by striking through deleted text and underlining added text as required by 37 CFR 1.121. A proper Amendment is now submitted with this office action. Entry of this Amendment is respectfully requested.

Double Patenting

Claims 1-3 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claim 16 of copending Application No. 10/376,695.

In the interest of expediting prosecution of the present application, and without conceding the validity of this rejection, Applicants include with this supplemental amendment a terminal

disclaimer disclaiming any term of claims 1-3 issuing from the present application beyond the term of any patents that issue from Application No. 10/376,695. The present application and Application No. 10/376,695 are co-owned by the same entity. Withdrawal of this rejection is respectfully requested.

As further discussed with Examiner on January 19, 2007, the claims now are in condition for allowance.

CONCLUSION

Applicants submit that this paper fully addresses the Office Action mailed September 15, 2006 and place this Application in condition for allowance. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned attorney at (650) 565-3585. The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. 23-2415 (Docket No. 31010-701.301).

Respectfully submitted,

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